ORIGINAL

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Approved: [signature]
JENNIFER LANE GACHIRI
Assistant United States Attorney

Before: THE HONORABLE MICHAEL H. DOLINGER
United States Magistrate Judge
Southern District of New York

U.S. DISTRICT COURT
FILED
FEB 14 2015
D.S.
S.D. OF N.Y.

- x

UNITED STATES OF AMERICA :

- v. - :

LINXUN LIAO, :

Defendant. :

:

- x

SEALED COMPLAINT

Violations of 18 U.S.C. §§ 554 and 2

COUNTY OF OFFENSE: MANHATTAN

DOC # 1

SOUTHERN DISTRICT OF NEW YORK, ss.:

KATHRYN McCABE, being duly sworn, deposes and says that she is a Senior Special Agent with the Department of Interior, U.S. Fish and Wildlife Service ("USFWS"), and charges as follows:

COUNT ONE
(Smuggling)

1. In or about May 2013, in the Southern District of New York and elsewhere, LINXUN LIAO, the defendant, did fraudulently and knowingly export and send from the United States, and attempt to export and send from the United States, merchandise, articles, and objects contrary to United States laws and regulations, and receive, conceal, buy, sell and facilitate the transportation, concealment, and sale of such merchandise, articles and objects, prior to exportation, knowing the same to be intended for exportation contrary to United States laws and regulations, to wit, LIAO purchased through a major auction house with headquarters then located in Manhattan, New York, two rhinoceros horn libation cups that he obtained for a total of approximately $230,000, and which he then exported to China,

knowing that such exportation of such rhinoceros was contrary to United States law.

(Title 18, United States Code, Sections 554 and 2.)

COUNT TWO
(Smuggling)

2. From in or about October 2012 through in or about December 2012, in the Southern District of New York and elsewhere, LINXUN LIAO, the defendant, did fraudulently and knowingly export and send from the United States, and attempt to export and send from the United States, merchandise, articles, and objects contrary to United States laws and regulations, and receive, conceal, buy, sell and facilitate the transportation, concealment, and sale of such merchandise, articles and objects, prior to exportation, knowing the same to be intended for exportation contrary to United States laws and regulations, to wit, LIAO purchased through a major auction house with headquarters then located in Manhattan, New York, a rhinoceros horn libation cup that he had obtained for approximately $29,000, which he then exported to China, knowing that such exportation of such rhinoceros was contrary to United States law.

(Title 18, United States Code, Sections 554 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I have been a Senior Special Agent with USFWS, Office of Law Enforcement ("USFWS-OLE") since October 2014, and am currently assigned to the Special Investigations Unit. Previously, since March 2011, I was a Special Agent with USFWS, assigned to the USFWS-OLE office located in Valley Stream, New York. Prior to becoming a Special Agent, I was an Investigative Case Specialist with the USFWS-OLE for approximately 21 months. I hold a Master of Science degree from the Center for Animals and Public Policy at Tufts University, and am a graduate of the Criminal Investigator Training Program and USFWS Special Agent Basic School at the Federal Law Enforcement Training Center in Glynco, Georgia. My duties include conducting criminal investigations of persons and businesses illegally commercializing protected wildlife. I have assisted with and conducted criminal investigations that have involved persons and businesses illegally commercializing in protected wildlife. I have read, studied, and received training on the laws and

regulations enforced by the USFWS, such as the Endangered Species Act ("ESA"), 16 U.S.C. Section 1531, et seq.; the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") T.I.A.S. 8249; and other related statutes such as smuggling statutes under Title 18 of the United States Code.

4. This affidavit is based on my training and experience, my personal participation in the investigation, my review of reports and records, and conversations I have had with other law enforcement officers and others about this matter and about the United States wildlife protection laws. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Background/Statutory Framework

5. Based on my training and experience I know the following, among other things, about rhinoceros and the federal laws protecting these animals.

a. All species of rhinoceros are protected under United States and international law.

b. Rhinoceros horn is a highly valued and sought after commodity despite the fact that its international trade has been largely banned since 1976. The demand for rhinoceros horn, which is used by some cultures for ornamental carvings, including libation cups, good luck charms, and alleged medicinal purposes, has resulted in a thriving black market. The black market price for rhinoceros horn is approximately as high as $30,000 per pound. Consequently, most species of rhinoceros are extinct or on the brink of extinction. The end market for rhinoceros horn and rhinoceros horn products is primarily in China and Vietnam.

c. Trade in rhinoceros horn has been regulated under CITES since 1976. CITES is a treaty providing protection to fish, wildlife, and plants that may become imperiled due to the demands of international markets. CITES has been signed by over 170 countries around the world, including the United States. CITES is implemented under the authority of the ESA and the regulations promulgated thereunder (16 U.S.C. § 1538(c); 50

C.F.R. Parts 14 and 23). An animal species listed as protected within CITES cannot be exported from the United States without prior notification to, and approval from, the USFWS. 50 C.F.R. 23.13 and 23.20. Species protected under CITES are listed in a series of appendices (Appendices I, II, and III). Under Appendix II of CITES, a species may be exported from the United States to a foreign country only if, prior to exportation, the exporter possesses a valid CITES export document issued by the United States. Under Appendix I of CITES, a species may be exported from the United States to a foreign country only if, prior to exportation, the exporter possesses a valid foreign import authorization document issued by the country of import and a valid export document issued by the United States. All rhinoceros species are protected under either CITES Appendix I or Appendix II.

d. The ESA was enacted to provide a program for the conservation of endangered and threatened species. See 50 C.F.R. § 17.11 (setting forth species included on the Endangered Species List). The ESA makes it unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to CITES. 16 U.S.C. § 1538(c)(1). Under the ESA, "commercial activity" is defined as all activities of industry and trade, including, but not limited to, the buying and selling of commodities and activities conducted for the purpose of facilitating such buying and selling. See 16 U.S.C. § 1532(2).

OVERVIEW

6. As set forth in greater detail below, based on my own participation in the investigation of LINXUN LIAO, the defendant, my review of reports prepared by other law enforcement agents involved in the investigation, my conversations with other law enforcement agents, my review of documents, and my interviews with LIAO and others, I have learned that LIAO purchased rhinoceros horn libation cups (the "Cups") between in or about October 2012 and in or about December 2012, and in or about May 2013, from a major auction house located in Manhattan ("Auction House #1"). After LIAO purchased these Cups, he arranged for them to be mailed to a relative's address in Harrison, New Jersey. He also arranged for a shipping business located in the Chinatown neighborhood of Manhattan, New York to subsequently export the Cups to China. The export of these wildlife products was illegal because they were made without the required declaration to the USFWS and without required CITES re-export permits.

THE DEFENDANT

7. LINXUN LIAO, the defendant, is 35 years of age and recently entered the United States on a Chinese passport. A search of border crossing information indicates that LIAO has traveled frequently between the United States and Canada.

8. I have been involved in an investigation of smuggling of wildlife items, including those made of rhinoceros horn. A review of records obtained from Auction House #1 shows that of approximately thirty-four (34) rhinoceros horn libation cups offered for sale and sold by Auction House #1 between in or about May 2009 and in or about May 2013, fifteen (15) were purchased by LINXUN LIAO, the defendant, for a total price of more than $1 million, including the buyer's premium paid to the auction house. When purchasing these items, LIAO used an address on Washington Street in Harrison, New Jersey ("the NJ Address"). Records obtained from an auction house in Philadelphia, Pennsylvania ("Auction House #2"), show that LIAO purchased an additional rhinoceros horn libation cup in or about March 2013 for approximately $34,000. Based upon my review of records, specific transactions include the following:

a. On or about May 1, 2013, LIAO purchased 2 rhinoceros horn libation cups from Auction House #1 for $120,000, and $110,400, respectively, including the buyer's premium. The total invoice was $248,545, which was paid for with four different wire transfers from different individuals located in China, $52,600 in cash, a credit card payment in the name of LIAO, and two other credit card payments. The items were shipped to LIAO at the NJ Address.

b. On or about March 16, 2013, LIAO purchased a rhinoceros horn libation cup from Auction House #2 for approximately $34,000, not including the buyer's premium. This item was shipped to the NJ Address on or about April 9, 2013.

c. On or about October 24, 2012, LIAO purchased a rhinoceros horn libation cup from Auction House #1 for $29,000. This cup was paid for between on or about November 7, 2012 and on or about November 8, 2012, with three different international wire transfers from individuals located in China, and two personal checks, including one from LIAO. This item was shipped to LIAO at the NJ Address on or about November 27, 2012.

9. Based upon my investigation, including a search of law enforcement databases, and as set forth further below, I have determined that the NJ Address is a private residence owned by the sister of LINXUN LIAO ("LIAO's Sister"), the defendant, and her husband ("LIAO's Brother-in-Law"). Both are Chinese nationals.

INTERVIEW OF LIAO'S SISTER AND LIAO'S BROTHER-IN-LAW
(February 10, 2015)

10. On or about February 10, 2015, I was informed by a fellow law enforcement officer that LINXUN LIAO, the defendant, had crossed into United States from Canada in New York by car. According to an officer with the United States Customs and Border Protection, LIAO, who was subject to a secondary inspection, stated that he was traveling to his sister's house located at the NJ Address.

11. Also on or about February 10, 2015, another USFWS agent and I visited the NJ Address and conducted consensual interviews of individuals who identified themselves as LIAO's Sister and LIAO's Brother-in-Law.

12. During the February 10, 2015 interview, LIAO's Sister and LIAO's Brother-in-Law stated, in substance and in part, the following:

a. LIAO lives in Canada, but has used LIAO's Sister's name, LIAO's Brother-in-Law's name, and their address, the NJ Address, to make purchases at major auction houses, because certain auction houses require a buyer to provide a United States address and license. LIAO personally paid for most of the items he purchased.

b. LIAO requested copies of the drivers' licenses of LIAO's Sister and LIAO's Brother-in-Law when LIAO placed bids on items sold for auction in the United States.

c. Prior to exporting merchandise to China, LIAO arranged for such merchandise to be delivered to the NJ Address. LIAO's Sister and LIAO's Brother-in-Law received approximately fifteen to twenty packages per month at the NJ Address on behalf of LIAO. Once the purchased items are delivered to the NJ Address, they take the items to, and store them in, the basement of their home.

d. Law enforcement officers asked LIAO's Brother-in-

Law if they could look at the interior of the basement. He agreed, and accompanied them downstairs. In the basement, among other things, the agents observed shipping documents and customs forms.

e. LIAO had previously purchased rhinoceros horn libation cups, and shipped them to the NJ Address. LIAO traveled to the United States to personally collect the rhinoceros horn libation cups from the NJ Address and to arrange for them to be transported to China.

f. LIAO's Brother-in-Law recalled one instance in which two men traveled from China to retrieve the rhinoceros horn libation cups from the NJ Address. He recalled receiving approximately three to four rhinoceros horn libation cups at the NJ Address, on behalf of LIAO, approximately two years ago.

g. Throughout the interview, LIAO's Sister and LIAO's Brother-in-Law acknowledged that they were expecting LIAO to visit that night. LIAO arrived at the NJ Address at approximately 8:00 p.m. on February 10, 2015. We identified ourselves to LIAO, who voluntarily agreed to speak with law enforcement officers.

INTERVIEW OF LINXUN LIAO
(FEBRUARY 10, 2015)

13. During the February 10, 2015 interview, LINXUN LIAO, the defendant, stated, in substance and in part, the following:

a. LIAO acknowledged that he had been involved in purchasing artifacts made of rhinoceros horn in the United States. He admitted that all of the rhinoceros horn items that LIAO purchased were exported from the United States to China. He frequently exported these items by using a courier service located in Chinatown in Manhattan, New York. LIAO added that his business partners and co-conspirators ("CC-1 and CC-2") had occasionally hand-carried the items to China. LIAO stated that he was aware that no permits had ever been obtained for the exports, but believed that he had little likelihood of getting caught by law enforcement for exporting rhinoceros horn items.[1]

[1] During the February 10, 2015 interview, LIAO stated that prior to the "Executive Order"—the President's Executive Order on Combating Wildlife Trafficking, issued in July of 2013—and the news exposure regarding U.S. wildlife laws, LIAO believed that it was "probably okay" to deal in rhinoceros horn because he had

b. LIAO admitted having purchased a number of rhinoceros horn libation cups from Auction House #1, which is located in Manhattan.

c. LIAO directed auction houses to send the items he won, including the Cups, to him at the NJ Address.

d. On occasion, two co-conspirators of LIAO traveled to the United States and collected rhinoceros horn cups from the NJ Address. In these instances, CC-1 and CC-2 hand-carried the rhinoceros horn cups back to China in their carry-on luggage without any paperwork. LIAO recalled approximately two occasions on which CC-1 and CC-2 had visited the NJ Address to pick up rhinoceros horn cups: once in 2011 and once in 2012. LIAO denied that he had ever hand-carried wildlife items to China and stated that he was too scared that he would be caught.

e. LIAO also exported wildlife items from the United States through a shipping company located in Chinatown, in Manhattan, New York. LIAO clarified that the shipping company functioned as a courier service that hand-carried the rhinoceros horn cups to China in a suitcase. LIAO

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never seen anything about it on the news. Auction House #1 alerted LIAO that the purchase and his information would be reported to the New York State Department of Environmental Conservation ("NYSDEC"). Since no one from the NYSDEC ever contacted LIAO, he stated that he thought that he would not get into trouble for exporting rhinoceros horn items. LIAO nonetheless admitted that Auction House #1 informed him that it would not provide him with CITES documents. Based on my review of records relating to LIAO's May 2013 purchase of rhinoceros horn cups from Auction House #1, Auction House #1 includes a standard disclaimer on each online auction listing. That disclaimer warned LIAO, and any other potential bidders, that the cups contained "material from a rhinoceros . . . which is an endangered species protected under CITES and other national laws in the United States." The disclaimer adds that "it is the purchaser's responsibility to obtain any export or import licenses and/or certificates," and that Auction House #1 "cannot give any assurance that such license and/or certificates can be obtained." Based on my training and experience, and my personal involvement in this investigation, I believe that the same disclaimer was visible to LIAO at the time that he purchased a rhinoceros horn cup from Auction House #1 between in or about October 2012 and in or about December 2012.

and others personally brought rhinoceros horn cups to the shipping company.

ADDITIONAL INTERVIEW OF LINXUN LIAO
(FEBRUARY 11, 2015)

14. On or about February 11, 2015, a law enforcement officer and I interviewed LINXUN LIAO, the defendant, for a second time, by phone. LIAO voluntarily agreed to answer law enforcement's questions. During the interview, LIAO stated, in substance and in part, the following. LIAO admitted having purchased one rhinoceros horn cup from Auction Cup #2, and at least ten rhinoceros horn cups from Auction House #1. LIAO also admitted that all of the rhinoceros horn cups he purchased were exported to China without the requisite CITES documents authorizing export. LIAO acknowledged that he had received 25% of the profit made on each cup. CC-1 received 50% and CC-2 received 25% of the profit for each cup.

15. A search of the USFWS database revealed that no declarations had been made nor CITES permits issued in the names of LINXUN LIAO, LIAO's Sister, LIAO's Brother-in-Law, CC-1, or CC-2.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of LINXUN LIAO, the defendant, and that he be imprisoned or bailed, as the case may be.

KATHRYN McCABE
Special Agent
U.S. Fish and Wildlife Service

Sworn to before me this
14th day of February 2015

UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK